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MEMORIAL

Relating to the

Court of Marshalsea

OF THE

KING's HOUSHOLD,

Held in the

Borough of SOUTHWARK.

Written by Mr. ASGILL. *10*

Litera scripta manet.

L O N D O N :

Printed in *March* 1728-9.

MEMORIAL

Relating to the

County of Marshall

OF THE

KING'S HOUSEHOLD

Borough of Newtown, N.Y.

Written by Mr. A. S. C. H. A.

Extra Scripta mss.

L O N D O N :

Printed in New York

A

MEMORIAL

Relating to the

Marshalsea-Court

IN SOUTHWARK.

BY Articul. super Chart. 28 Ed. 1. *The Stewards and Marshals of the King's House, shall not hold Plea of Freehold, Debt, Covenant, or Contract; but only of Trespass done in the House or Verge, or of*

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Con-

Contracts and Covenants when both Parties are of the House.

And the Steward shall from henceforth take no Cognizance of Debt, or other things, but of the People of the same House.

And if any thing be done contrary to this Act, it shall be void.

By 13 R. II. *The Jurisdiction of the Steward and Marshal of the King's House shall extend no farther than 12 Miles from the King's Lodgings.*

(Which Extent every way makes the whole Diameter thereof 72 Miles in Circumference.)

By 15 H. VI. *In a Suit commenced before the Steward and Marshal of the King's House, the Defendant shall not be estopped to plead, That the Plaintiff or he are not of the King's House.*

Notwithstanding all which, this Court doth execute their Process against any of the Subjects (not being Peers) residing, coming, or being within the Diameter of their Jurisdiction (except within the City of London) altho neither Plaintiff or Defendant are of the Household.

To which the Defendants are not admitted to plead (as directed by 15 H. VI.) till they have given special Bail of two House-Keepers within the Limits aforesaid (exclusive of the City of London.)

Which if the Defendants cannot procure, they are committed to the Prison of that Court called the *Marshalsea*.

And in truth not only the Defendants, but many Practicers of the Law, are ignorant of the Right to this Plea.

Which being a foreign Plea must be also signed by Counsel.

By reason of all which (according to the Account lately returned) there are now 330 Prisoners in that Jail, without any Causes of Action, the pretended Causes being *coram non Judice*, as not cognizable in that Court.

Being not only a Grievance upon the Subjects, but an Usurpation upon the Law it self, and an Incroachment upon the Jurisdiction of the King's Court at *Westminster*, who hold Pleas of the greatest Causes, and upon the inferior Courts, who hold Pleas of the lesser.

Which

Which gave occasion to the late Lord Chief Justice *Holt* to declare that Court a common Nuisance, presentable by a Grand Jury.

And tho the great Officers thereof, and those deriving under them, are too mighty for their Prisoners to lift up their Heels against them;

Yet the House of Commons (as the Grand Inquest of the Kingdom) have Right to inquire into, and have Redress of this Grievance (if they find it to be so.)

Which Redress (as is conceived) may be done by the following (or like) Clause to be inserted in any Act, *viz.*

“ That from henceforth, in all Suits commenced before the Steward and Marshal of the King’s House, the Plaintiffs and Defendants in the Writs therein named, shall be so named with an Addition of the King’s Household; and that the Defendant upon Entering an Appearance, and Filing common Bail, shall be admitted to the Plea directed by the Stat. 15 H. VI. That the Plaintiff or he are not of the Household; which Plea shall be received without being signed by Counsel. And
“ if

“ if the Plaintiff neglect or refuse to join
 “ Issue thereon, or that on Trial thereof
 “ a Verdict go against him, the Defendant
 “ shall be discharged, and the Plaintiff pay
 “ Costs.”

Against which Redress no Offence can be justly taken, the same being no Suppression of or Infringement upon the Jurisdiction of that Court; but only a Memorandum for them to keep themselves within the due Bounds of their Original Institution.

And there seeming to be a Spirit raised in the present Legislature to be canonized as Authors of a Jubilee, for Redemption and Relief of Captives in Debt and Prison, so far as Justice and Mercy may meet together in doing it,

Is a Dictate for me to vent this *Memorial* at this time: Which, tho it should not meet with present Success, I have had the Satisfaction of bearing my Testimony in it.

The Dissolution of Monasteries, and the taking away the Court of Wards, did neither of them succeed upon the first or second Instance made for them.

And

And if the Cry and Clamours of Monks
and Friars had prevailed against the first,
or of Masters of Request and Escheators
against the last, they might both of them have
remained to this Day.

To which I shall make no other Applica-
tion than to repeat my Motto :

Litera scripta manet.
Bonds of their Original Institution.

And there seeming to be a Spirit raised in
the present Legislature to be cancelled as
Authors of a Jubilee, for Redemption and
Relief of Captives in Debt and Prison, to
their doing it.

Is a Disgrace for me to vent this
view at this time : Which, tho it should not
meet with present Success, I have had the
Satisfaction of bearing my Testimony in
it.

The Dissolution of Monasteries, and the
taking away the Court of Wards, did nei-
ther of them succeed upon the first or second
Instance made for them.

And

